

REMARKS

Claims 2-7, 10-15 and 20-27 remain pending after amendment.

Claim Amendments

By this amendment, claims 1 and 16-19 are cancelled. Claims 2, 4, 5 and 7 are written in independent form. Editorial amendments are made in claims 3, 6, 14-15 and 20-22. New claims 23-27 are added, the limitations of which correspond to previously-presented dependent claims. No new matter is added by this amendment.

Allowable Subject Matter

Applicants thank the Examiner for the indication of allowable subject matter of claims 2-7 and 10-22. In view of the above amendments to the claims, it is believed that all claims are now directed to allowable subject matter.

Rejection under 35 USC 102(b)

Claim 1 stands rejected under 35 USC 102(b) as being anticipated by U.S. Patent No. 4,418,307.

In response, claim 1 is cancelled. The limitations of claim 1 are incorporated into claims 2, 4, 5 and 7.

The rejection is thus moot and should be withdrawn.

Translation of JP 9-157530

Applicants attach hereto an English language translation of JP 9-157530 for review by the Examiner. A copy of JP 9-157530 was previously submitted (together with an English language Abstract) in an Information Disclosure Statement of July 15, 2004. It is noted that this reference discloses at paragraph [0011] and the examples an alkyl gallic acid ester, where the alkyl group may comprise a variety of alkyl groups of varied carbon number. The disclosed asphalt emulsion, however, necessarily includes substantial amounts of water. See paragraph [0010] of the translation which teaches that water is present in an amount of 20-60 parts by weight, per 40-80 parts by weight of asphalt. Applicants' claims, by contrast, provide that the claimed invention is practiced either in the absence, or substantial absence, of water, or are otherwise distinguishable.

The application is accordingly believed to be in condition for allowance. An early indication of same earnestly is solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John W. Bailey at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for

any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

jm
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Respectfully submitted,

By 

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Attachment: English translation of
JP 9-157539 w/Form PTO-1449